



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

70

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/015,956

12/10/2001

David A. Tirrell

110197.403

2956

500

7590

08/04/2006

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
701 FIFTH AVE  
SUITE 6300  
SEATTLE, WA 98104-7092

EXAMINER

ROOKE, AGNES BEATA

ART UNIT

PAPER NUMBER

1653

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/015,956

Applicant(s)

TIRRELL, DAVID A.

Examiner

Agnes B. Rooke

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 17, 18 and 56-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 57 and 60 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 17, 18, 56, 58, 59, and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/14/2006 has been entered.

The amendments to the claims filed on 05/15/2006 have been acknowledged.

Claims 1, 3-5, 17, 18, 56-61 are pending and currently under examination.

Claims 2, 6-16, 19-55 are cancelled. New claims 58-61 have been added.

This application claims priority to 60/254,516 filed on 12/08/2000.

### **Rejections Withdrawn**

The rejection of claims 1 and 57, under 35 USC 112, second paragraph, is withdrawn because applicant amended the claims to state that the terminal region is the amino-terminal region.

The rejection of claims 1, 4, and 57, under 35 USC 112, second paragraph, is withdrawn because the applicant deleted the word "about."

The rejection of claims 5, 17, and 18, under 35 USC 112, second paragraph, is withdrawn because the applicant corrected improper dependency of the claims.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 57, and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Petka et al. (U.S. 6,090,911).

For example, in Claim 1, drawn to a fusion protein, the polyanionic domain is comprised of **(Ala Gly)<sub>0-8</sub> – (Glu Gly)<sub>1-40</sub>**.

In Claim 57, drawn to a fusion protein, the polyanionic domain comprised of:

**(Ala-Gly)<sub>0-8</sub> – (Pro Asp Gly)<sub>1-40</sub>**

or

**(Ala-Gly)<sub>0-8</sub> – (Asp-Gly)<sub>1-40</sub>**.

Petka et al's SEQ ID NO: 24 (1-28) has the following sequence, depicted with the instant sequences set forth below:

				5						10
Ala	Any	Any	Ala	Asp	Any	Asp	Ala	Any	Any	
Gly			Gly	Glu			Glu	Gly		
Pro			Pro				Pro			
<b>Ala</b>	<b>Gly</b>	<b>Ala</b>	<b>Gly</b>	<b>Glu</b>	<b>Gly</b>	<b>Glu</b>	<b>Gly</b>	<b>Glu</b>	<b>Gly</b>	
<i>Pro</i>	<i>Asp</i>	<i>Gly</i>	<i>Pro</i>	<i>Asp</i>	<i>Gly</i>					
<b>Ala</b>	<b>Gly</b>	<b>Ala</b>	<b>Gly</b>	<b>Asp</b>	<b>Gly</b>	<b>Asp</b>	<b>Gly</b>	<b>Asp</b>	<b>Gly</b>	
				15						20
Ala	Asp	Any	Asp	Ala	Any	Any	Ala	Asp	Any	

Art Unit: 1653

Gly Glu                  Glu Gly                  Gly Glu  
Pro                                  Pro                                  Pro

25                                  28

Asp Ala Any Any Ala                  Asp Any Asp  
Glu Gly                                  Glu                  Glu  
            Pro                                  Pro

The instant sequence can be found throughout Petka et al.'s SEQ ID NO: 24, as exemplified above. Therefore, a fusion protein comprising in a terminal region a polyanionic domain depicted as amino acid sequences **(Ala Gly)<sub>0-8</sub> – (Glu Gly)<sub>1-40</sub>**, **(Ala-Gly)<sub>0-8</sub> – (Pro Asp Gly)<sub>1-40</sub>**, or **(Ala-Gly)<sub>0-8</sub> – (Asp-Gly)<sub>1-40</sub>** is anticipated by Petka et al.

### ***Objections to claims***

Claims 4, 5, 17, 18, 56, 58, 59, and 61 are objected to because they depend from rejected independent base claims.

## Conclusion

No claims are allowed.

Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 1653

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Agnes Rooke whose telephone number is 571-272-2055. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR or Public PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AR  
AR



**KAREN COCHRANE CARLSON, PH.D**  
**PRIMARY EXAMINER**